



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 7, 1998

Mr. David Anderson
Chief Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR98-2386

Dear Mr. Anderson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118376.

The Texas Education Agency (the "TEA") received a request for "any and all correspondence, records, waivers, or any other documents relating to the Certification of our Superintendent, Dr. Thomas Rector." You claim that the requested information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

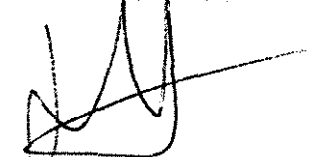
Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. Section 21.355 of the Education Code provides, "[a]ny document evaluating the performance of a teacher or administrator is confidential." This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). This office also concluded that an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.* Based on the reasoning set out in Open Records Decision No. 643 (1996), we conclude that the marked documents submitted under Exhibit C are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the TEA must withhold this information from public disclosure.

The submitted records also include the administrator's college transcripts under Exhibit B. We observe that section 552.102(b) excepts from disclosure a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, with the exception of the degree obtained and the curriculum. We therefore conclude that, prior to releasing the transcripts, the TEA must redact from the transcripts all information other than the superintendent's name, the degree obtained, and the courses taken. Open Records Decision No. 526 at 2-3 (1989).

Section 552.111 excepts from disclosure interagency or intra-agency communications "consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body." Open Records Decision No. 615 at 5 (1993). Some of the information at issue concerns routine personnel and administrative issues and not the TEA's policymaking functions. However, we have marked portions of the documents within Exhibit A which reveal the policy making function of TEA with respect to the waiver of certification of superintendents. Thus, you may withhold the marked portion of the documents as excepted from disclosure under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a long horizontal line extending to the right.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 118376

Enclosures: Marked documents

cc: Mr. Jim Chambers
Route 9, Box 1370
Mount Pleasant, Texas 75455
(w/o enclosures)